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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT SEATTLE

8                   UNITED STATES OF AMERICA,

9                         Plaintiff,

10                  v.

11                  RAYMOND EARL DEVORE,

12                         Defendant.

CR15-160 TSZ

13                  RAYMOND EARL DEVORE,

14                         Petitioner,

15                  v.

16                  UNITED STATES OF AMERICA,

17                         Respondent.

C21-0056 TSZ  
[related to CR15-160]

MINUTE ORDER

18                  The following Minute Order is made by direction of the Court, the Honorable  
19                  Thomas S. Zilly, United States District Judge:

20                  (1) Defendant Raymond Earl DeVore's motions to modify terms of restitution,  
21                  docket nos. 278 and 282 in Case No. CR15-160, are DENIED. Defendant's obligation  
22                  during his incarceration is to pay 25% of his inmate gross monthly income or \$25 per  
23                  quarter (\$8.33 per month), whichever is greater. See Am. Judgment (CR15-160, docket  
24                  no. 277 at 10). This standard requirement is not onerous. Moreover, defendant has not  
25                  shown the requisite "material change" in his "economic circumstances" to justify an  
26                  adjustment to the payment schedule. See 18 U.S.C. § 3664(k). These same terms  
27                  appeared in the original judgment entered October 12, 2017, and the amended judgment

1 entered December 1, 2017, both of which were subject to appeal, and this issue was not  
 2 raised. See Judgment (CR15-160, docket no. 194 at 8); Am. Judgment (CR15-160,  
 3 docket no. 201 at 9); see also 9th Cir. Memo. (CR15-160, docket no. 224). The amended  
 4 judgment entered December 3, 2020, also contained these terms, which were again not  
 5 challenged on appeal. See Am. Judgment (CR15-160, docket no. 247 at 10); see also  
 6 9th Cir. Memo. (CR15-160, docket no. 259). Defendant was physically present when  
 7 sentenced on October 12, 2017, and the issue of restitution was discussed. See Tr. at  
 8 18:2–15, 28:16, & 29:14–31:3 (Oct. 12, 2017) (CR15-160, docket no. 203). Although the  
 9 amount of restitution was not specified during the course of the initial sentencing hearing,  
 10 the terms of payment were set forth in the judgment that was reviewed by defendant’s  
 11 attorney and presented without objection to the Court for signature. See *id.* at 31:7–14.  
 12 When defendant was re-sentenced on December 3, 2020, he consented to and did appear  
 13 via video conference, he was given an opportunity through a screen-sharing feature to  
 14 review every page of the amended judgment, and he did not state any objection to the  
 15 requirement that he make payments toward the restitution amount during his period of  
 16 imprisonment. See Tr. at 2:25–3:23 & 23:8–28:16 (Dec. 3, 2020) (C15-160, docket  
 17 no. 257). The re-sentencing conducted on March 29, 2023, which resulted in the now  
 18 operative Amended Judgment, was limited to Special Condition No. 9, which was the  
 only issue over which the Court had jurisdiction following remand from the United States  
 Court of Appeals for the Ninth Circuit, and restitution was not addressed. See Minutes  
 (C15-160, docket no. 276). The Court concludes that defendant has waived any right to  
 request the suspension of restitution payments until after he is released from custody and  
 that, to the extent defendant may make such motion, it is entirely lacking in merit and  
 must be denied.

13                         (2) The Court is in receipt of a letter from defendant/petitioner dated July 26,  
 14 2023. See Letter (C21-56, docket no. 8). He has expressed confusion concerning the  
 15 status of his pending matters. To clarify, in January 2021, petitioner filed a motion  
 16 pursuant to 28 U.S.C. § 2255, which was stayed in light of his then-pending direct appeal.  
 17 Minute Order (C21-56, docket no. 5). In July 2023, petitioner filed another motion  
 18 pursuant to 28 U.S.C. § 2255, which was originally docketed in a new case (C23-1087),  
 but was then re-docketed in C21-56, and the new case (C23-1087) was administratively  
 closed. The stay of C21-56 has been lifted, and a deadline has been set for respondent  
 United States to file and serve its answer to the § 2255 motions. See Minute Order  
 (C21-56, docket no. 7).

19                         (3) The letter mentioned in Paragraph 2, above, also inquires whether the  
 20 Court will appoint counsel for defendant/petitioner in connection with a motion for  
 21 compassionate release and/or his § 2255 motions. With respect to any motion for  
 22 compassionate release, defendant’s motion for appointment of counsel is DENIED. The  
 motion for appointment of counsel to assist with the § 2255 motions (C21-56, docket  
 no. 8) is hereby NOTED for August 25, 2023, and any response and any reply shall be  
 filed in accordance with Local Civil Rule 7(d).

(4) The Clerk is directed to send a copy of this Minute Order to all counsel of record and to defendant/petitioner pro se. The Clerk shall also send to petitioner pro se another copy of the Minute Order entered July 26, 2023, docket no. 7 in Case No. C21-56.

Dated this 4th day of August, 2023.

Ravi Subramanian

## Clerk

s/Laurie Cuaresma

## Deputy Clerk